

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT DANVILLE, VA
FILED FOR
RMS
JAN 26 2006

DERWIN OSBOURNE,
Plaintiff,

) Civil Action No. 7:05cv00756 BY: *HMcDowell* JOHN F. CORCORAN, CLERK
)

v.

) **MEMORANDUM OPINION**

GENE JOHNSON, et al.,
Defendants.

) By: Jackson L. Kiser
Senior U.S. District Judge

In accordance with the Memorandum Opinion entered this day it, is hereby

ORDERED

that:

- 1) Plaintiff's motion for reconsideration of this court's December 16, 2005, Order is hereby **GRANTED**;
- 2) Plaintiff's complaint is hereby **DISMISSED** without prejudice pursuant to §1915A(b)(1);
- 3) All other pending motions are hereby denied as **MOOT**; and
- 4) This case will be **STRICKEN** from the active docket of the court.

Plaintiff is advised that he may appeal this decision pursuant to Rules 3 and 4 of the Federal Rules of Civil Procedure by filing a notice of appeal with this court within thirty (30) days of entry of this Order, or within such extended period as the court may grant pursuant to Rule 4(a)(5) or 4(a)(6).

The Clerk of the Court is directed to send certified copies of this Order and accompanying Memorandum Opinion to plaintiff and counsel of record for the defendants.

ENTER: This 26th day of January, 2006.

Jackson L. Kiser
Senior United States District Judge